IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

Crl.MC.No. 2296 of 2007()

CC.705/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

(MP 4573/2007)

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PETITIONER: ACCUSED

P.SASIKUMAR, AGED 40 YEARS,
S/O. LATE SREEDHARAN, PATTAYIL AGENCIES,
KADALUNDY, CALICUT.

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON

RESPONDENTS: COMPLAINANT AND STATE

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1. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. INDIA CEMENTS LTD.,
41/697, ICL HOUSE, KRISHNASWAMY ROAD,
COCHIN-35, REP. BY ITS ASSISTANT MANAGER
AND POA K.SREEDHARAN.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2296 of 2007

Dated this the 18th day of July 2007

O R D E R

The petitioner has come to this court again. He faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. By order dated 4/6/2007 in Crl.M.C.No.623/2007, certain directions were issued in favour of the petitioner as conceded by the complainant in the interests of an expeditious disposal. Documents which the petitioner wanted were produced before the learned Magistrate in pursuance of that order. The petitioner has now filed another application for an opportunity to recall the complaint. Such a request was never made earlier. The learned Magistrate has considered the request and by the impugned order, rejected the said prayer. The petitioner claims to be aggrieved by the said order.

2. I must alertly remind myself of the nature, quality and contours of the jurisdiction which I am called upon to invoke and exercise. Extraordinary inherent jurisdiction under Section 482 Cr.P.C is sought to be invoked. Such invocation cannot be done as a matter of course. Sufficient and compelling reasons must be

shown to exist to persuade this court to invoke such extraordinary jurisdiction. In the facts and circumstances of this case, I am not at all persuaded to hold that there is any warrant for invocation of such extraordinary jurisdiction. The order impugned is undoubtedly an interlocutory order. Law frowns upon any attempt to challenge an interlocutory order during the pendency of proceedings. This policy of the law is reflected clearly in Section 397(2) Cr.P.C. The petitioner who did not earlier make a request for recall of PW1/complainant has now at the fag end of the trial come forward with such a request. Interlocutory orders must normally wait for their challenge, if necessary along with the final orders to be passed in the proceedings. I am, in these circumstances, satisfied that the petitioner is not entitled to any relief under Section 482 Cr.P.C.

3. In the result, this petition is dismissed. I may hasten to observe that the dismissal of this Criminal Miscellaneous Case will not in any way fetter the rights of the petitioner to raise all appropriate contentions before the learned Magistrate and also to challenge the impugned order, if necessary, along with the final order in appropriate proceedings.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007